

227386

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TELEPHONE (312) 236-0204
FAX (312) 201-9695
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THOMAS F. MCFARLAND

July 1, 2010

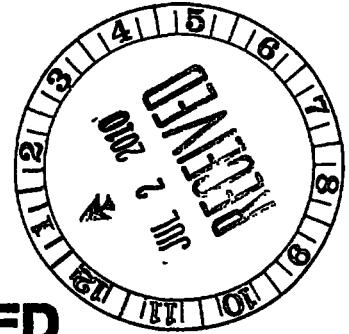
By UPS overnight mail

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

FEE RECEIVED

JUL 02 2010

**SURFACE
TRANSPORTATION BOARD**



Re: STB Docket No. AB-1064X, *Fulton County, LLC -- Abandonment Exemption --
in Rochester, Fulton County, IN*

Dear Ms. Brown:

Enclosed please find an original and 10 copies of Verified Notice of Exemption Under 49 C.F.R. § 1152.50, for filing with the Board in the above referenced matter.

Also enclosed is a check in the amount of \$3,700 for the filing fee.

FILED

Very truly yours,

JUL 02 2010

Tom McFarland

**SURFACE
TRANSPORTATION BOARD**
Thomas F. McFarland
Attorney for Applicant

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ENTERED
Office of Proceedings
JUL 02 2010
Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

FULTON COUNTY, LLC --)
ABANDONMENT EXEMPTION -- IN) DOCKET NO. AB-1064X
ROCHESTER, FULTON COUNTY, IN)

VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1152.50

FULTON COUNTY, LLC
1827 East Lucas Street
Rochester, IN 46975

Applicant

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1890
Chicago, IL 60604-1112
(312) 236-0204
(312) 201-9695 fax
mcfarland@aol.com

Attorney for Applicant

DATE FILED: July 2, 2010

BEFORE THE
SURFACE TRANSPORTATION BOARD

FULTON COUNTY, LLC --)	
ABANDONMENT EXEMPTION -- IN)	DOCKET NO. AB-1064X
ROCHESTER, FULTON COUNTY, IN)	

**VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1152.50**

Pursuant to 49 C.F.R. § 1152.50, *et seq.*, FULTON COUNTY, LLC (FC) hereby provides notice of its class exemption from the requirements of 49 U.S.C. § 10903 for abandonment of a rail line on which no traffic has been originated, terminated, or moved overhead for more than two years in the past, i.e., between a point 200 feet north of East 18th Street (Milepost 96.9) and the end of track at the northwest property line of Wabash Road (Milepost 95.6), a distance of 1.3 miles in Rochester, Fulton County, Indiana (the Rail Line). A map showing the Rail Line is attached as Appendix 1.

Pursuant to 49 C.F.R. § 1152.50(d)(2), FC provides the following information:

1. Proposed Consummation Date

The proposed abandonment would be consummated no earlier than the 50th day after this Notice of Exemption is filed, i.e., August 21, 2010.

2. Certification Required by 49 C.F.R. § 1152.50(b)

Mr. Jeff Zent, President of FC, hereby certifies that no local traffic has moved over the Rail Line for at least two years; that no overhead traffic has moved over the Rail Line for at least two years inasmuch as the Rail Line is stub-ended; and that no formal complaint filed by a user

of rail service on the Rail Line (or by a state or local government entity acting on behalf of such a user) regarding cessation of service over the Rail Line either is pending with the Board or any U.S. District Court or has been decided in favor of the complainant within the two-year period, having alleged or proven that FC has imposed an illegal embargo or other unlawful impediment to service. Mr. Zent's verification of the foregoing is attached to this Notice as Appendix 2.

3. Exact Name of Applicant - 49 C.F.R. § 1152.55(a)(1)

Applicant is Fulton County, LLC.

4. Common Carrier Status - 49 C.F.R. § 1152.22(a)(2)

Applicant is a common carrier by rail subject to 49 U.S.C. Subtitle IV, Chapter 105.

5. Relief Sought - 49 C.F.R. § 1152.22(a)(3)

Applicant seeks an exemption that would authorize abandonment of the Rail Line.

6. Map of the Rail Line - 49 C.F.R. § 1152.22(a)(4)

The required map is attached to this Notice as Appendix 1.

7. Applicant's Representative - 49 C.F.R. § 1152.22(a)(7)

Applicant's Representative to whom correspondence is to be sent is Thomas F.

McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, Illinois 60604-1112, (312) 236-0204 (phone), (312) 201-9695 (fax), mcfarland@aol.com (e-mail).

8. Postal Service Zip Codes - 49 C.F.R. § 1152.22(a)(8)

The Rail Line traverses USPS Zip Code 46975.

9. Use for Other Public Purposes - 49 C.F.R. § 1152.22(e)(4)

In FC's opinion, the right-of-way land proposed for abandonment is appropriate for use for another public purpose, i.e., railbanking and interim recreational trail use. No restriction on

title to that right-of-way, including any reversionary interest, would affect that use if conveyance for such use were to be made under the National Trails System Act, 16 U.S.C. § 1247(d).

10. Level of Labor Protection

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co. - Abandonment - Goshen*, 360 I.C.C. 91 (1979).

11. Notice Requirements - 49 C.F.R. § 1152.50(d)(1) and 49 C.F.R. § 1105.11

Mr. Jeff Zent, President of FC, hereby certifies that in accordance with 49 C.F.R. § 1152.20(d)(1), at least 10 days prior to the filing of this Notice, FC sent a notice in writing to the Indiana Department of Transportation; the United States Department of Defense, Military Traffic Management Command, Transportation Engineering Agency, Railroads for National Defense Program; the National Park Service, Recreation Resources Assistance Division; and the U.S. Department of Agriculture, Chief of the Forest Service, naming the Applicant, describing the Rail Line involved, including the USPS Zip Code affected, indicating that the class exemption procedure is being used, and stating the approximate date that the Notice of Exemption will be filed with the Board. The Notice included the required statement regarding federally-granted right-of-way. See Appendix 2.

Mr. Zent further certifies that in accordance with 49 C.F.R. § 1105.11, FC sent a copy of its Draft Environmental and Historic Report to the Indiana State Clearinghouse; the Indiana Environmental Protection Agency, the Board of Commissioners of Fulton County, Indiana; the Regional Office of the U.S. Environmental Protection Agency; the U.S. Fish and Wildlife Service; the U.S. Army Corps of Engineers; the National Park Service; the U.S. Soil

Conservation Service; the National Geodetic Survey; and the Indiana Historic Preservation Office. See Appendix 2.

ENVIRONMENTAL AND HISTORIC REPORTING

Attached to this Notice of Exemption as Appendix 3 is a copy of a Draft Environmental and Historic Report dated May 28, 2010 that was prepared by FC and submitted to all agencies named in the Board's regulations.

Attached to this Notice as Appendix 4 are comments received to date by FC in response to its Draft Environmental and Historic Report.

NEWSPAPER PUBLICATION

FC hereby certifies that a corrected notice of the proposed abandonment was published in the Rochester Sentinel, a newspaper of general circulation in Fulton County, Indiana, on June 19, 2010. A copy of the corrected notice is attached as Appendix 5. The notice was corrected to conform to notices for class exemptions for out-of-service rail lines.

WHEREFORE, within 20 days of the filing of this Notice, the Board, through the Director of the Office of Proceedings, should publish a notice in the *Federal Register* of the filing of this Notice. (*See* 49 C.F.R. § 1152.50(d)(3)).

Respectfully submitted,

FULTON COUNTY, LLC
1827 East Lucas Street
Rochester, IN 46975

Applicant

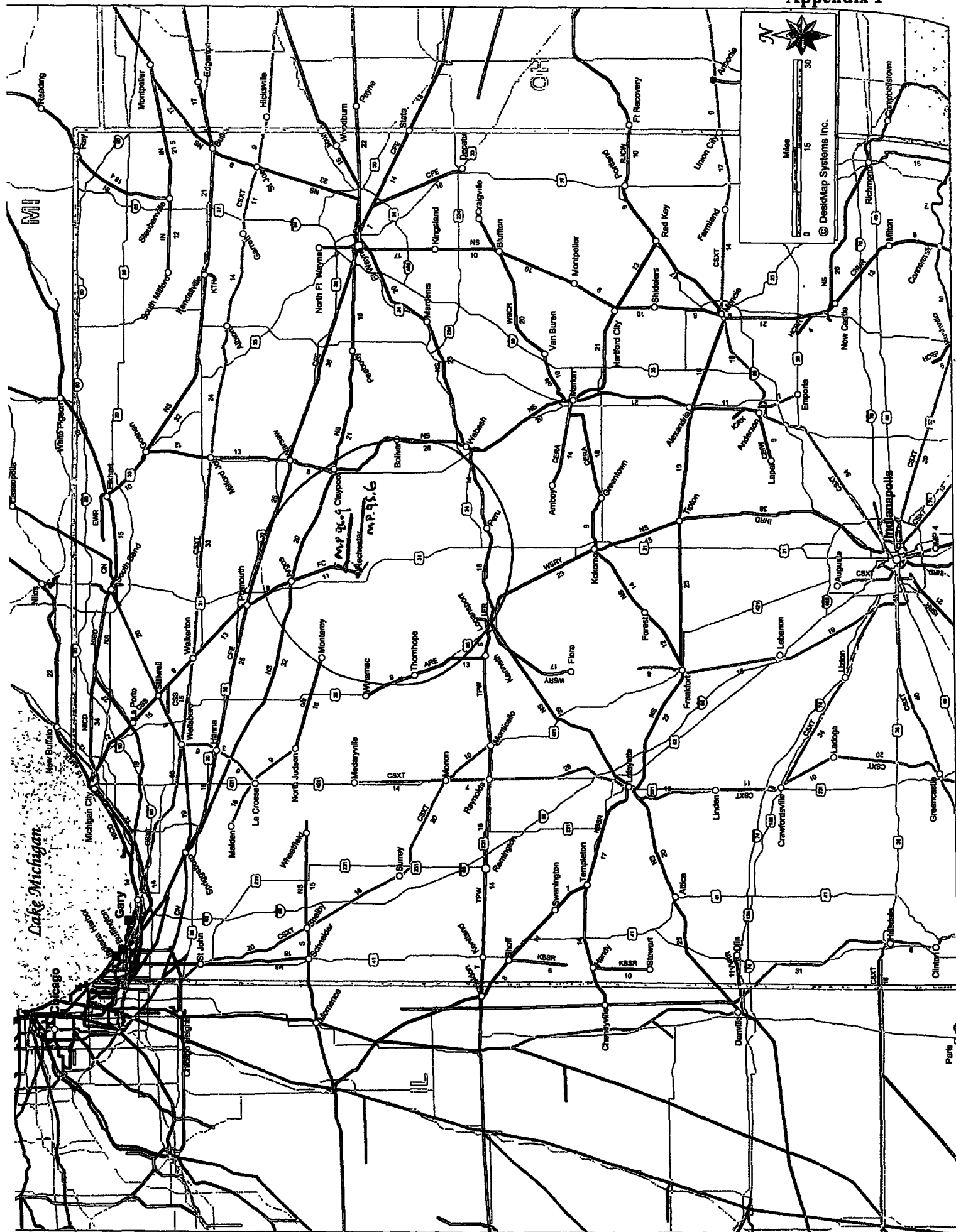
Thomas F. McFarland

THOMAS F. McFARLAND
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208 South LaSalle Street, Suite 1890
Chicago, IL 60604-1112
(312) 236-0204
(312) 201-9695 fax
mcfarland@aol.com

Attorney for Applicant

DATE FILED: July 2, 2010

1



2

VERIFICATION

STATE OF INDIANA)
) SS:
COUNTY OF FULTON)

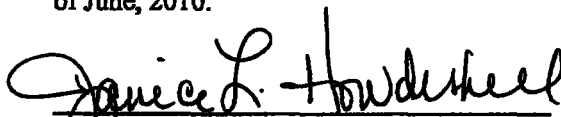
JEFF ZENT, being duly sworn, states that:

1. He is President of Fulton County, LLC (FC), the rail carrier having filed a Notice of Exemption under 49 C.F.R. § 1152.50 in this proceeding; and
2. No local traffic has moved over the Rail Line proposed for abandonment in this proceeding for at least two years; no overhead traffic has moved over the Rail Line for at least two years inasmuch as the Rail Line has been stub-ended during that period; no formal complaint filed by a user of rail service on the Rail Line (or by a state or local government entity acting on behalf of such a user) regarding cessation of service over the Rail Line either is pending with the Board or any U.S. District Court or has been decided in favor of the Complainant within the two-year period, having alleged or proven that FC has imposed an illegal embargo or other unlawful impediment to service; and
3. In accordance with 49 C.F.R. § 1150.20(d)(1), at least 10 days prior to filing its Notice of Exemption, FC sent a notice in writing to the Indiana Department of Transportation; the United States Department of Defense, Military Traffic Management Command, Railroads for National Defense Program; the National Park Service, Recreation Resources Assistance Division; and the United States Department of Agriculture, Chief of the Forest Service, naming FC as Applicant, describing the Rail Line involved, including the USPS Zip Code affected, indicating that the class exemption procedure is being used, stating the

- approximate date that the Notice of Exemption is to be filed with the Board; and
- including a statement that to FC's knowledge the Rail Line does not contain federally-granted right-of-way; and
4. In accordance with 49 C.F.R. § 1105.11, FC sent a copy of its Draft Environmental and Historic Report to the Indiana State Clearinghouse; the Indiana Environmental Protection Agency; the Board of Commissioners of Fulton County, Indiana; the Regional Office of the United States Environmental Protection Agency; the United States Fish & Wildlife Service; the United States Army Corps of Engineers; the National Park Service; the United States Soil Conservation Service; the National Geodetic Survey; and the Indiana Historic Preservation Office; and
5. All other factual allegations in FC's Notice of Exemption are true and correct.


JEFF ZENT

SUBSCRIBED and SWORN to
before me in and for the State and
County above named, this 10th day
of June, 2010.


Notary Public

My Commission expires: _____

 JANICE L. HOWDESHELL, Notary Public
A Resident of Fulton County, IN
My Commission Expires February 24, 2017

3

BEFORE THE
SURFACE TRANSPORTATION BOARD

FULTON COUNTY, LLC --)	
ABANDONMENT EXEMPTION -- IN)	DOCKET NO. AB-1064X
ROCHESTER, FULTON COUNTY, IN)	

DRAFT ENVIRONMENTAL AND HISTORIC REPORT

Pursuant to 49 C.F.R. § 1105.7 and 1105.8, FULTON COUNTY, LLC (FC) hereby submits this Draft Environmental and Historic Report.

I. Environmental Report

FC hereby submits the following information required by 49 C.F.R. § 1105.7(e):

(1) Proposed action and alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

Fulton County, LLC (FC) is a privately-owned common carrier by railroad whose address is 1827 East Lucas Street, Rochester, Indiana 46975. In the near future, FC intends to file with the Surface Transportation Board (STB) a Notice of Exemption from 49 U.S.C. § 10903 for abandonment of a 1.3-mile rail line at Rochester, Fulton County, Indiana, more particularly identified as extending between a point 200 feet north of East 18th Street (Milepost 96.9) and the end of track at the northwest property line of Wabash Road (Milepost 95.6) (the Rail Line). The Rail Line is shaded in yellow on a print that is attached as Appendix 1.

The Rail Line proposed for abandonment is at the south end of FC's 13-mile rail line between Argos, IN and Rochester, IN. Abandonment of the Rail Line is exempt from the application and approval requirements of 49 U.S.C. § 10903 because it has not been used for the provision of rail service for more than two years.

In the event of abandonment, the track materials in the Line would be removed and sold for reuse, rerolling, or scrap, and the land in the right-of-way would be conveyed for railbanking and interim recreational trail use.

Minimal maintenance of the Line currently being performed would cease in the event of abandonment.

There is no reasonable alternative to abandonment inasmuch as FC would incur substantial opportunity costs associated with nonrail use of the Line's assets unless the Line were to be abandoned.

A map of the Line is attached to this Report as Appendix 1.

(2) Transportation system. Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

FC believes that abandonment of the Line will have a minimal effect on regional or local transportation systems and patterns. No rail traffic is currently moving over the Line, so there would be no diversion of rail traffic to other modes of transportation.

(3) Land use. (i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

FC believes that abandonment of the Line would be consistent with existing land use plans. Railbanking of the right-of-way would be consistent with current industrial zoning. FC is consulting by letter with planning agencies for the City of Rochester and Fulton County in order to obtain any contrary views. See Appendix 2 attached to this Report.

(3)(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

The proposed abandonment would have no effect on prime agricultural land. The Line is in an entirely suburban setting in the Rochester area. Therefore, removal of trackage from the Line should not have any effect on prime agricultural land. In accordance with this regulation, FC is consulting by letter with the Natural Resources Conservation Service (Appendix 2 hereto).

(3)(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by §1105.9.

The proposed abandonment does not affect land or water uses in a designated coastal zone.

(3)(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. 10906 and explain why.

In FC's opinion, the right-of-way in the Line would be appropriate for alternative public use as a recreational trail. In the event of abandonment, the right-of-way would be conveyed for railbanking and interim recreational trail use.

(4) Energy. (i) Describe the effect of the proposed action on transportation of energy resources.

The proposed abandonment will have no effect on transportation of energy resources.

(4)(ii) Describe the effect of the proposed action on recyclable commodities.

The proposed abandonment will have no effect on recyclable commodities.

(4)(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

The proposed abandonment will not result in a change in overall energy efficiency because no rail traffic would be diverted to truck transportation.

(4)(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year; or

(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given. To minimize the production of repetitive data, the information on overall energy efficiency in §§1105.7(e)(4)(iii) need not be supplied if the more detailed information in §§1105.7(e)(4)(iv) is required.

Not applicable, as no such diversions will occur.

(5) Air. (i) If the proposed action will result in either:

(A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or

(B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. 10901 (or 10502) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.

Not applicable, as no such increases will occur.

(5)(ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either:

(A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,

(B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. 10901 (or 49 U.S.C. 10502), or a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

Not applicable, as no such increases will occur.

(5)(iii) If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

Not applicable, as no such transportation will occur.

(6) Noise. If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

(i) An incremental increase in noise levels of three decibels Ldn or more; or

(ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

Not applicable, as no such thresholds will be surpassed.

(7) Safety. (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

The proposed exemption and the resulting abandonment will have a minimal effect on public health and safety because existing rail crossings of public streets and private driveways would continue to be used for recreational purposes.

(7)(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

Not applicable, as hazardous materials will not be transported.

(7)(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

Not applicable, as no such sites will be affected.

(8) Biological resources. (i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

The proposed exemption is unlikely to adversely affect endangered or threatened species or areas designated as critical habitat. In accordance with this regulation, FC is consulting by letter with the U.S. Fish and Wildlife Service (Appendix 2). A response from that Service, dated May 19, 2010, is attached to this Report as Appendix 4.

(8)(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

The proposed exemption will not affect wildlife sanctuaries or refuges, nor National or state parks or forests.

(9) Water. (i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

The proposed exemption will be consistent with applicable Federal, State or local water quality standards. In accordance with this regulation, FC is consulting by letter with local water quality officials (Appendix 2).

(9)(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

FC believes that permits under section 404 of the Clean Water Act are not required for the proposed exemption. The proposed exemption will not affect any designated wetlands or 100-year flood plains. In accordance with this regulation, FC is consulting by letter with the U.S. Army Corps of Engineers (Appendix 2).

(9)(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)

FC believes that permits under section 402 of the Clean Water Act are not required for the proposed exemption. In accordance with this regulation, FC is consulting by letter with the U.S. Environmental Protection Agency (Appendix 2).

(10) Proposed Mitigation. Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Not applicable, as there will be no adverse environmental impacts to mitigate.

II. Historic Report

FC hereby submits the following information required by 49 C.F.R. § 1105.8(d):

(d)(1) A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action;

The required topographic map is attached to this Report as Appendix 3.

(d)(2) A written description of the right-of-way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area;

The right-of-way in the Line is 100 feet wide for approximately one-half of its 1.3-mile length and 66.5 feet wide for the other one-half. The surrounding area is suburban in nature.

(d)(3) Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area;

There are no bridges or structures in the Line.

(d)(4) The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known;

Not applicable.

(d)(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action;

For many years in the past, the Rail Line was part of a main line of the New York, Chicago & St. Louis Railroad Company, commonly known as the Nickle Plate Road, between Indianapolis and Michigan City, Indiana. As a result of merger, the Rail Line came under the ownership of Norfolk and Western Railway Company (N&W). N&W sold the Rail Line to FC in 1996.

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic;

Not applicable, as no historic structures are involved.

(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 CFR 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);

Not applicable. There are no such structures. In accordance with this regulation, FC is consulting by letter with the Historical Preservation Office (Appendix 2 hereto).

(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

FC has no knowledge of any prior subsurface ground disturbance or fill, or environmental conditions that might affect the archeological recovery of resources and the surrounding terrain.

Respectfully submitted,

FULTON COUNTY LLC
1827 East Lucas Street
Rochester, IN 46975

Applicant

Thomas F. McFarland

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1890
Chicago, IL 60604-1112
(312) 236-0204
(312) 201-9695 fax
mcfarland@aol.com
Attorney for Applicant

Date Submitted: May 28, 2010

DRAFT ENVIRONMENTAL & HISTORIC REPORT

APPENDIX 1

Map of Rail Line pursuant to 49 C.F.R. § 1105.7(e)(1)

APPENDIX 1



DRAFT ENVIRONMENTAL & HISTORIC REPORT

APPENDIX 2

**Letter dated May 14, 2010 to agencies
pursuant to 49 C.F.R. § 1105.7(b)(1)-(11)**

LAW OFFICE
THOMAS F. MCFARLAND, PC.
208 SOUTH LASALLE STREET - SUITE 1890
CHICAGO, ILLINOIS 60604-1112
TELEPHONE (312) 236-0204
FAX (312) 201-9695
mcfarland@aol.com

THOMAS F. MCFARLAND

May 14, 2010

State Clearinghouse

Indiana Department of Transportation
Railroad Section
100 N. Senate Avenue
1GC-N, Room N901
Indianapolis, IN 46204

State Coastal Zone Management

Indiana Department of Natural Resources
Division of Water
402 West Washington Street, Rm. W2615
Indianapolis, IN 46204

City Planner:

City of Rochester
Planning & Development Department
320 Main Street
P.O. Box 110
Rochester, IN 46975

U.S. Fish & Wildlife Service:

U.S. Fish & Wildlife Service - Region 3
One Federal Drive
BHW Federal Building
Fort Snelling, MN 55111-4056

National Park Service:

Nick Chevance, Environmental Coordinator
Planning and Compliance Office
National Park Service - Midwest Region
601 Riverfront Drive
Omaha, NE 68102-4226

National Oceanic & Atmospheric Admin.:

NGS Information Services, NOAA, N/NGS12
National Geodetic Survey SSMC-3, #9202
1315 East-West Highway
Silver Spring, MD 20910-3282

State Environmental Protection Agency

Indiana Dept. of Environmental Management
Indiana Government Center
100 N. Senate Avenue
Indianapolis, IN 46206-6015

County Commissioners:

Fulton County Commissioners
125 East 9th Street
Rochester, IN 46975-1500

Environmental Protection Agency

(regional office):

Environmental Protection Agency - Region 5
Metcalf Building
Office of Strategic Environmental Analysis
77 West Jackson Boulevard, Mailcode B-19J
Chicago, IL 60604

U.S. Army Corps of Engineers

U.S. Army Corps of Engineers
Louisville District
P.O. Box 59
Louisville, KY 40201-0059

Natural Resources Conservation Service:

Natural Resources Conservation Service
USDA
6013 Lakeside Boulevard
Indianapolis, IN 46278

Indiana Historical Preservation Office:

Indiana Department of Natural Resources
Division of Historic Preservation & Archeology
402 West Washington Street
Indiana Government Center South, Rm. W256
Indianapolis, IN 46204

Re: STB Docket No. AB-1064X, *Fulton County, LLC -- Abandonment Exemption -- in
Rochester, Fulton County, Indiana*

THOMAS F. MCFARLAND

May 14, 2010

Page 2

Dear Agency or Governmental Representative:

Fulton County, LLC (FC) is a privately-owned common carrier by railroad whose address is 1827 East Lucas Street, Rochester, Indiana 46975. In the near future, FC intends to file with the Surface Transportation Board (STB) a Notice of Exemption from 49 U.S.C. § 10903 for abandonment of a 1.3-mile rail line at Rochester, Fulton County, Indiana, more particularly identified as extending between a point 200 feet north of East 18th Street (Milepost 96.9) and the end of track at the northwest property line of Wabash Road (Milepost 95.6) (the Rail Line). The Rail Line is shaded in yellow on a print that is attached to this letter as Appendix 1.

The Rail Line proposed for abandonment is the southern-most segment of FC's 13-mile rail line between Argos, IN and Rochester, IN. Abandonment of the Rail Line is exempt from the application and approval requirements of 49 U.S.C. § 10903 because it has not been used for the provision of rail service for more than two years.

Before filing a Notice of Exemption for abandonment of the Rail Line, FC is required to prepare and circulate to appropriate local government agencies a Draft Environmental and Historic Report that will be reviewed by the STB in conjunction with its determination of whether or not the proposed abandonment would have a significant adverse effect on the human environment or on historic resources. This letter is intended to consult with your agency in regard to the environmental and historic effects of the proposed abandonment.

Pursuant to STB regulations at 49 C.F.R. § 1105.7, this letter is to request your assistance in identifying potential environmental and historic effects of that proposed abandonment. FC does not anticipate any adverse environmental or historic impacts; however, if you identify any such adverse impacts, please describe any action that could be taken to mitigate such adverse impacts. Please provide a written response to this letter as soon as possible so that your response can be included in a Draft Environmental and Historic Report that FC will prepare, file with the STB, and serve on interested agencies.

COUNTY AND CITY PLANNING AGENCIES. Please state whether the proposed abandonment would be consistent with existing land-use plans. Describe any inconsistencies.

US SOIL CONSERVATION SERVICE. Please state the effect of the proposed abandonment on any prime agricultural land.

US FISH AND WILDLIFE SERVICE. Please state (1) whether the proposed abandonment is likely to adversely affect endangered or threatened species or areas designated as a critical habitat and, if

THOMAS F. MCFARLAND

May 14, 2010

Page 3

so, please describe such effects; and (2) whether wildlife sanctuaries or refuges, National or State parks or forests will be affected and, if so, please describe such effects.

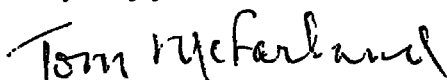
STATE WATER QUALITY OFFICIALS. Please state whether the proposed abandonment would be consistent with applicable Federal, State or Local water quality standards. Please describe any inconsistencies.

US AND STATE ENVIRONMENTAL PROTECTION AGENCIES (OR EQUIVALENT AGENCY). Please (1) identify any potential adverse environmental effects of the proposed abandonment on the surrounding area, and (2) identify the location of any known hazardous materials spills on the right-of-way of the Rail Line, and list the types of hazardous materials involved, and (3) state whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed abandonment.

STATE HISTORICAL PRESERVATION OFFICE. There are no bridges or structures on the Rail Line proposed for abandonment. The Rail Line was originally part of a line of the New York, St. Louis & Chicago Railroad Company (Nickel Plate) between Michigan City and Indianapolis, IN. It came under the ownership of Fulton County, LLC in 1996. The Rail Line is not thought to be of unusual historic significance.

Please send your reply to me as FC's attorney to: Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112. You may reach me by telephone at (312) 236-0204 if you have any questions or need further information. FC appreciates your assistance in furnishing a reply to this letter.

Very truly yours,



Thomas F. McFarland
Attorney for Fulton County, LLC

THOMAS F. MCFARLAND

May 14, 2010

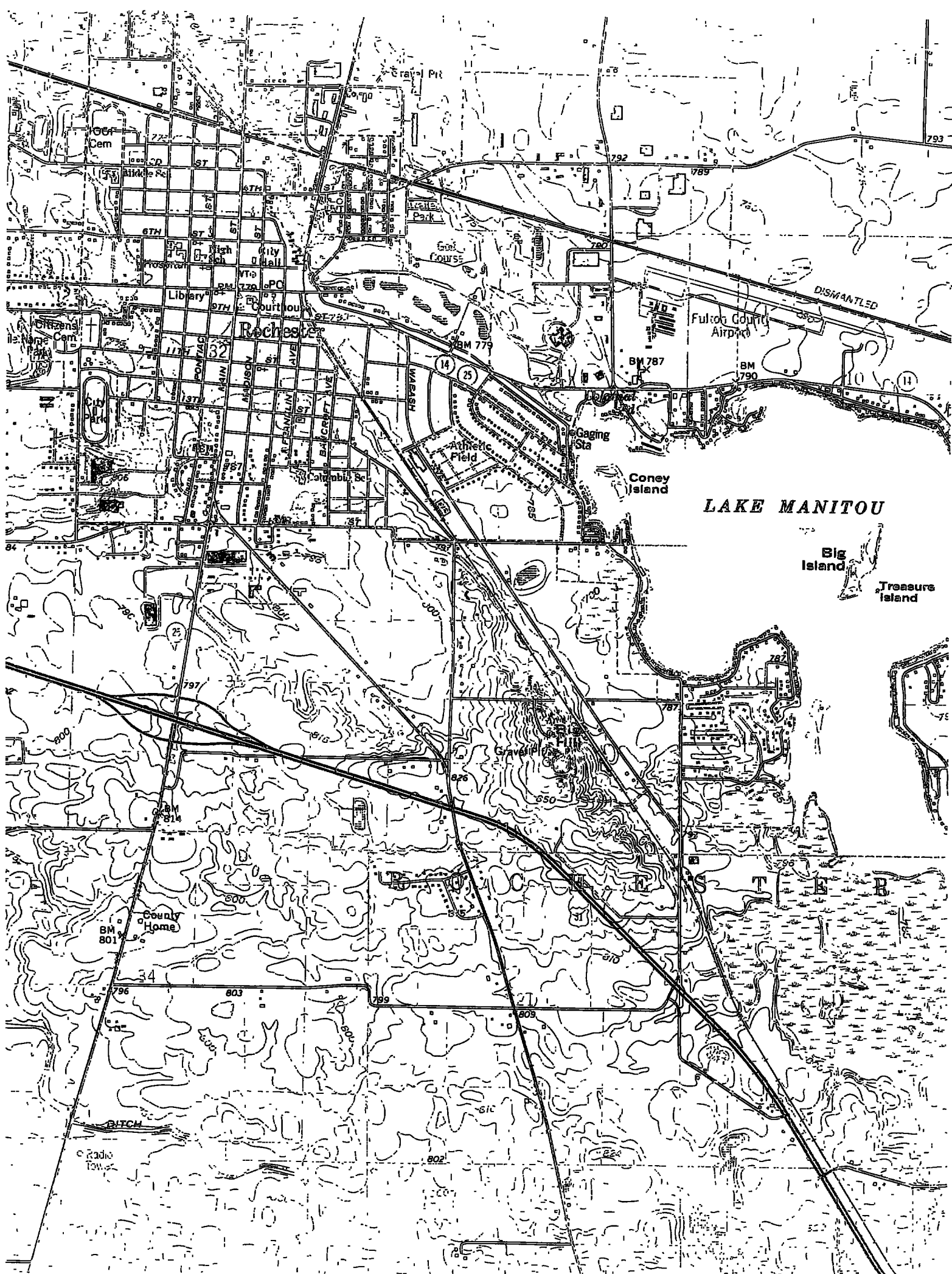
Page 4

cc: (by e-mail)
Mr. Jeff Zent, wilsonroch@rtcol.com
Mr. Terry Lee, fultoncountywellness@rtcol.com
Mr. John Cory, jcory@prairiemills.com
Carl Miller, Esq., cmiller1@choiceonemail.com
Daniel LaKemper, Esq., lakemper@mtco.com

DRAFT ENVIRONMENTAL & HISTORIC REPORT

APPENDIX 3

Topographic map pursuant to 49 C.F.R. § 1105.8(d)(1)



DRAFT ENVIRONMENTAL & HISTORIC REPORT

APPENDIX 4

Response to letter dated May 14, 2010 to U.S. Fish & Wildlife Service



IN REPLY REFER TO:

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Bishop Henry Whipple Federal Building
1 Federal Drive
Fort Snelling, MN 55111-4056

FWS/NWRS-RE - General
Railroad Abandonments

May 19, 2010

Mr. Thomas F. McFarland, P.C.
Law Office
208 South LaSalle Street
Suite 1890
Chicago, Illinois 60604-0204

Dear Mr. McFarland:

Thank you for the opportunity to comment on the proposed abandonment of service on 1.3 miles of railroad line between Milepost 96.9 and Milepost 95.6 in Grimes, Fulton County, Indiana, STB Docket No. AB-1064X.

We have researched our ownerships in the vicinity and have determined we do not own any lands or interests in land in the vicinity of the proposed rail line abandonments. We do not have any concerns regarding real estate matters in the abandonments.

Sincerely,

A handwritten signature in black ink, reading "Patrick G. Carroll", is positioned above the typed name.

Patrick G. Carroll
Senior Realty Officer
Division of Realty

CERTIFICATE OF SERVICE

I hereby certify that on May 28, 2010, I served the foregoing document, Draft Environmental and Historic Report, by first-class, U.S. mail, postage prepaid, on the following:

State Clearinghouse

Indiana Department of Transportation
Railroad Section
100 N. Senate Avenue
1GC-N, Room N901
Indianapolis, IN 46204

State Coastal Zone Management

Indiana Department of Natural Resources
Division of Water
402 West Washington Street, Rm. W2615
Indianapolis, IN 46204

City Planner:

City of Rochester
Planning & Development Department
320 Main Street
P.O. Box 110
Rochester, IN 46975

U.S. Fish & Wildlife Service:

U.S. Fish & Wildlife Service - Region 3
One Federal Drive
BHW Federal Building
Fort Snelling, MN 55111-4056

National Park Service:

Nick Chevance, Environmental Coordinator
Planning and Compliance Office
National Park Service - Midwest Region
601 Riverfront Drive
Omaha, NE 68102-4226

National Oceanic & Atmospheric Admin.:

NGS Information Services, NOAA, N/NGS12
National Geodetic Survey SSMC-3, #9202
1315 East-West Highway
Silver Spring, MD 20910-3282

State Environmental Protection Agency

Indiana Dept. of Environmental Management
Indiana Government Center
100 N. Senate Avenue
Indianapolis, IN 46206-6015

County Commissioners:

Fulton County Commissioners
125 East 9th Street
Rochester, IN 46975-1500

Environmental Protection Agency

(regional office):

Environmental Protection Agency - Region 5
Metcalf Building
Office of Strategic Environmental Analysis
77 West Jackson Boulevard, Mailcode B-19J
Chicago, IL 60604

U.S. Army Corps of Engineers

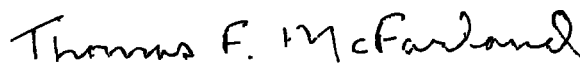
U.S. Army Corps of Engineers
Louisville District
P.O. Box 59
Louisville, KY 40201-0059

Natural Resources Conservation Service:

Natural Resources Conservation Service
USDA
6013 Lakeside Boulevard
Indianapolis, IN 46278

Indiana Historic Preservation Office:

Mr. James Glass, Deputy State Historic Pres. Off.
Indiana Department of Natural Resources
Division of Historic Preservation & Archeology
402 West Washington Street, Rm. W274
Indianapolis, IN 46204-2739



Thomas F. McFarland

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United States Department of Agriculture



Natural Resources Conservation Service
6013 Lakeside Blvd.
Indianapolis, IN 46278

June 2, 2010

Thomas F. McFarland
Attorney for Fulton County, LLC
208 S. LaSalle St., Ste 1890
Chicago, IL 60604-1112

Dear Mr. McFarland:

The proposed project to abandon approximately 1.3 miles of rail line between milepost 96.9 and milepost 95.6 in Fulton County, Indiana, as referred to in your letter received June 1, 2010, will not cause a conversion of prime farmland.

If you need additional information, please contact Lisa Bolton at 317-290-3200, extension 342.

Sincerely,

ACTING FOR

A handwritten signature in black ink that reads "Shannon Zezula".

SHANNON ZEZULA
Acting State Conservationist

Helping People Help the Land

An Equal Opportunity Provider and Employer



United States Department of the Interior

Fish and Wildlife Service



Bloomington Field Office (ES)
620 South Walker Street
Bloomington, IN 47403-2121
Phone: (812) 334-4261 Fax: (812) 334-4273
June 11, 2010

Mr. Thomas F. McFarland, P.C.
208 South LaSalle Street, Suite 1890
Chicago, Illinois 60604-0294

Project: STB Docket No. AB-1064X, Fulton County, LLC Abandonment Exemption
Location: Rochester, Fulton County, Indiana

Dear Mr. McFarland:

This responds to your letter dated May 14, 2010, requesting our comments on the aforementioned project.

These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et. seq.) and are consistent with the intent of the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and the U. S. Fish and Wildlife Service's Mitigation Policy.

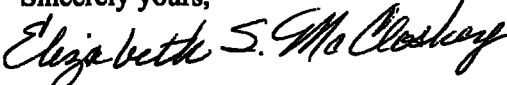
No wetlands or other significant habitats would be adversely affected by the proposed railroad track abandonment.

ENDANGERED SPECIES

The proposed project is within the range of the Federally endangered Indiana bat (Myotis sodalis) and clubshell mussel (Pleurobema clava) and the candidate rayed bean mussel (Villosa fabilis) and sheepsnose mussel (Plethobasus cyphus). However, there is no habitat for any of these species within the proposed project area, so we agree that the proposed project is not likely to adversely affect these endangered and candidate species.

This precludes the need for further consultation on this project as required under Section 7 of the Endangered Species Act of 1973, as amended. However, should new information arise pertaining to project plans or a revised species list be published, it will be necessary for the Federal agency to reinstate consultation.

If you have any questions, please contact Elizabeth McCloskey at (219) 983-9753 or elizabeth_mccloskey@fws.gov.

Sincerely yours,

for Scott E. Pruitt
Supervisor

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I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Sarah O. Wilson
Title _____ Publisher

Date: June 19, 2010

Publisher's Affidavit

Indiana)
County) SS:

I appeared before me, a notary public in and for said county
the undersigned Sarah O. Wilson who, being duly
sworn that she is PUBLISHER of the ROCHESTER SENTINEL newspaper of
circulation printed and published in the English language in the (city) (town) of
Rochester, in said state and county aforesaid, and that the printed matter attached herein
copy, which was duly published in said for 1 time the dates of
being as follows:
June 19, 2010

Sarah O. Wilson

and sworn to before me this

19th day of June 2010

Mary E. Sundine
Mary E. Sundine: Resident Of Fulton County

on expires:
Oct. 24, 2010

BEFORE THE SURFACE
TRANSPORTATION BOARD
WASHINGTON, D.C. 20423

STB Docket No. AB-1064X

FULTON COUNTY, ILL.
ABANDONMENT EXEMPTION
IN ROCHESTER,
FULTON COUNTY, INDIANA

CORRECTED NOTICE OF INTENT
TO FILE AN AFFIDAVIT
FOR ABANDONMENT

FULTON COUNTY, ILL. (FC) gives
notice that on or about July 2, 2010
it intends to file with the Surface
Transportation Board, Washington,
D.C. 20423 a Notice of Exemption
under 49 CFR 1152 Subpart F, Ex-
empt Abandonments permitting
the abandonment of a 1.3-mile line
of railroad between Milepost 96.0,
which is a point 200 feet north of
East 18th Street and Milepost 95.8,
which is the end of track at the north-
west property line of Wabash Road,
all of which is located in Rochester,
Fulton County, Indiana (the Rail
Line). The Rail Line extends through
United States Postal Zip Code
46875. The proceeding is docketed
as STB Docket No. AB-1064X.
Fulton County, ILL. - Abandonment
Exemption - in Rochester, Fulton
County, IN.

The Board's Section of
Environmental Analysis (SEA) will
generally prepare an Environmental
Assessment (EA), which will normally
be available 25 days after the filing of
the notice of exemption. Comments
on environmental and energy mat-
ters should be filed no later than 15
days after the EA becomes available
to the public and will be addressed
in a Board decision. Interested
persons may obtain a copy of the
EA or make inquiries regarding envi-
ronmental matters by writing to the
Section of Environmental Analysis
(SEA), Surface Transportation Board,
Washington, D.C. 20423 or by calling
that office at 202-245-0295.
Appropriate offers of financial assis-
tance to continue rail service can
be filed with the Board. Requests
for environmental conditions, public
use, conditions of rail banking/trails
use also can be filed with the Board.
An original and 10 copies of any
pleading that raises matters other
than environmental issues (such as
trails use, public use and offers of
financial assistance) must be filed
directly with the Board's Office of
the Secretary, 1925 K Street, NW,
Washington, D.C. 20423 (See 49
CFR 1104.1(a) and 1104.3(a)) and
one copy must be served on appli-
cants' representative. See 49 CFR
1104.12(a). Questions regarding
offers of financial assistance, public
use, or trails use may be directed to
the Board's Office of Congressional
and Public Services at 202-245-
0230. Copies of any comments or
requests for conditions should be
served on the applicants' representa-
tive, Thomas F. McFarland, Thomas
F. McFarland, P.C., 208 South
LaSalle Street, Suite 1890, Chicago,
IL 60604-1112, phone 312-236-0204.

June 19,